

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN HALL COMMUNITY ROOM
June 14, 2005**

Present

JK: Jeff Kablik, Chairperson

LG: Lucy Gertz, Vice Chair

RS: Robert Sherburne

FZ: Frank Zarba, Associate Member

BL: Brian Logue

HJ: Henry Jungmann

JZ: Jeanne Zarba

LC: Lori Capone, Director

Gloria Clancy, Clerk

Absent

CH: Cynthia Hanna

LB: Laura Bride, Associate Member

7:00 Meeting opened by Jeff Kablik, Chairperson

The first two hearings were opened together as they are related and both are to be continued.

7:02 Missick Realty Trust – 100 Massapoag Road – Notice of Intent: (Map 3, Parcel 4) (Continued from 5/25, 6/8, 7/27, 9/28, 10/26, 11/9/04 and 1/25, 3/22 & 4/26/05) Proposed five (5) lot residential subdivision with driveways, grading, grass swale and associated utilities within the buffer zone.

7:05 Missick Realty Trust - Massapoag Roadway – Notice of Intent: (Map 3, Parcels 2,3,4,4-4,4-5,4-6 & 4-7) (continued from 3/22 & 4/26/05) Proposed roadway improvement, parking, drainage, grading, and associated utilities within the buffer zone of Lake Massapoag and the 200' riverfront area of a perennial stream. Steve Eriksen of Norse Environmental Services, and Doug Lees from Land Engineering & Environmental Services, LLC represented the applicant, James Patierno, who was also present. Steve referred to a letter dated May 31, 2005 from Land Engineering & Environmental Services, LLC and went over the changes made to the plans in answer to the comments from our engineering review. He also reviewed the changes to the *Stormwater Operation and Management Plan for Wilson Way*. There was much discussion, after which JK said they should continue the hearing until Jeff Rider, our consultant, can review these changes. The applicant and his engineers protested that Mr. Rider is difficult to work with. He keeps coming back with more of the same type of comments, even after personally meeting together with them. They feel the Commission should be able to make a decision based on the information they have, and, if need be, add contingencies to the OOC. The members disagreed, and will wait to vote until Jeff Rider puts it in writing that all issues have been resolved. Mr. Patierno made a few abusive comments to the members on his way out of the meeting. JK asked for abutter comments. There were none.

HJ: Motion to continue both of these Missick Realty hearings to June 28 at 7:10 P.M.

JZ: 2nd.

Unanimous. (6-0)

7:15 (7:25) Linnette Rivera – Lot 12 River Bend Road – Notice of Intent: (Map 20B, Parcel 29, Lot 12) (Continued from 2/22, 3/8, 3/22, 4/12 & 4/26/05) Installation of a dock along the Merrimack River, and proposed clearing of 25'x25' area for parking within the 200' Riverfront Area. LC said that issues that arose from the last meeting have required correspondence with Town Counsel, Board of Health and the Building Commissioner. She is awaiting a reply from Charles Zaroulis. She spoke to the applicant who is willing to continue to the next meeting.

BL: Motion to continue this hearing to June 28 at 7:15 P.M.

RS: 2nd

Unanimous (6-0)

7:30 (7:34) Applewood Construction Corp - 75 Lakeview Avenue – Notice of Intent: (Map 25, Parcel 58) Proposed single family dwelling, deck, driveway, grading and associated utilities within the buffer zone and Riverfront Area of Lawrence Brook. Steve Eriksen represented the applicant. James Harrington was also present. Steve passed out a modified plan and commented that one of the direct abutters, Elizabeth Coughlin (61 Lakeview Avenue) has asked that the location of the proposed house be moved to allow more of a buffer between the new house and her house. In order to do so, the new house will be right along the 100' inner riparian line. He needs to allow at least 20' for grading, etc., which would cause disturbance into the inner riparian area. After input from the members and Ms. Coughlin it was agreed that the house could be moved forward 10' and then over. That would allow the space for grading without encroaching into the inner riparian zone. Jim Harrington also agreed to work with Elizabeth and have some planting done between the houses. JK mentioned that at the last meeting Ms. Coughlin had suggested that some "low impact techniques" be used to minimize the roadside drainage problem in that area. Steve said the edge of the lawn will be brought right up to the roadside, and Mr. Lees said the lot would be graded to slope to the rear of the lot. JK asked for any abutter comments. Randy Dean (57 Lakeview Avenue) asked if anyone knew where a pipe in the area emptied out. There was some discussion that it was likely a pipe that went from the pond to the stream.

HJ: Motion to close the hearing.

JZ: 2nd.

Unanimous. (6-0)

HJ: Motion to issue an Order of Conditions permitting the project at 75 Lakeview Avenue per plan dated 4/8/05 with the following conditions: 1.) the set back for the house from the roadway will be 50' and the northerly side lot will be 60'. 2.) the lot will be graded toward the rear of the lot. 3.) There will be no disturbance to the inner riparian zone in perpetuity through a deed restriction. 4.) The issuance will be contingent on receipt of a revised plan showing these changes.

JZ: 2nd.

Unanimous. (6-0)

7:45 (7:57) Gary Sarica – 11 Buckhill Road – Notice of Intent: (Map 24, Parcel 11J, Lot 4) Proposed installation of a 15'x 33' above ground pool and a 12'x 14' three-season porch within the buffer zone.

HJ: Motion to waive the reading of the abutter list.

BL: 2nd.

Unanimous. (6-0)

HJ: Motion to waive the reading of the legal notice.

BL: 2nd.

Unanimous. (6-0)

Mr. Sarica presented his plan. He confirmed that he will use a sand filter, that backwashing will be directed away from the buffer zone, and there will be very little grading necessary. LC told him to leave the silt fencing until the area is stabilized. JK asked for abutter comments. There were none.

HJ: Motion to close the hearing.

RS: 2nd.

Unanimous. (6-0)

HJ: Motion to approve the project for 11 Buckhill Road per plan and discussion.

BL: 2nd.

Unanimous. (6-0)

8:05 Aline Roy – 18 Bridle Path Way – Notice of Intent: (Map 27, Parcel 64) Proposed construction of a single family home, driveway, retaining walls, septic system and associated utilities within the buffer zone.

HJ: Motion to waive the reading of the abutter list.

BL: 2nd.

Unanimous. (6-0)

HJ: Motion to waive the reading of the legal notice.

BL: 2nd.

Unanimous. (6-0)

Bernie Paquin & Ethan Davis of Dana F. Perkins were present with the applicant. They said that the owner of the property was Gilbert Campbell. Mr. Davis presented the plan. LC told the applicants' representative when he submitted the application that due to insufficient lot size and the fact that the Zoning Board of Appeals had at some time in the past, ruled this lot was unbuildable, he may want to consult with the Building Commissioner prior to filing with the Conservation Commission. The representative wanted to move forward with the Notice of Intent application and consult with the Building Commissioner in the interim. This inquiry was never made. JK asked for abutter's comments. Jerry Martin (14 Bridle Path Way) said that when he was buying his house, that lot was for sale then as a buildable lot. The only other abutter with comments was Jack Scott (22 Bridle Path Way). He said that he had to file with us for permission to do a project and wanted to make sure that any other projects near the wetland also followed the correct procedure. Mr. Paquin asked the Commission to continue the hearing in order to receive a ruling on the buildability of the lot.

JZ: Motion to continue the hearing to June 28 at 7:30 P.M.

RS: 2nd.

Unanimous. (6-0)

Other Business:

- ❖ **Navin Patel – 23 Swan Road** – had applied for a building permit for an addition. LC noticed that he had not completed some replication that was required in his OOC. Mr. Patel showed pictures of the area that he just had landscaped and seeded and a list of planting that he has put in. He also told them that the silt fencing is still in place. He will clean that area up after removing it.
- ❖ LC referred to the *Conservation Restriction to Groton Conservation Trust* for the Massapoag Rod & Gun Club Parcel ready for signature.

JZ: Motion to approve the *Conservation Restriction to Groton Conservation Trust*.

LG: 2nd.

Unanimous.(6-0)

- ❖ As a requirement of the Self Help Grant, LC and Chris Chisholm of the CPC composed the ***Lake Massapoag Conservation Area Management Plan***. It also requires Commission signatures.

JZ: Motion to approve the ***Lake Massapoag Conservation Area Management Plan***.

RS: 2nd.

Unanimous.(6-0)

- ❖ A letter from Charles Zaroulis regarding the **End of Beech Tree Road** filing and appeal. The court ordered that the action be remanded to the Conservation Commission on the issue of ownership. Atty. Zaroulis informed LC that the Commission will need to hold a hearing regarding this issue. We may need to hire Howe Surveying and will need to notify all abutters at our own expense. Charles will need to be present. He said to make it for July 26th.

- ❖ We will advertise a hearing for revision of our **Regulations** to be held on July 12th.

Reorganization of Conservation Commission:

RS: Nominated HJ for Chairperson.

JZ: 2nd.

Unanimous. (6-0)

HJ: Nominated RS for ViceChair.

JZ: 2nd.

Unanimous. (6-0)

- ❖ Request for 3 year **Extension of OOC for 18 Jamie Way**. LC recommended not extending this OOC. The applicant has not begun any of the work and the ZBA has denied it as a buildable lot. There have been changes in the WPA and our Wetland Bylaws and Regulations since this filing. It was decided that if the applicant gets approval from the ZBA, they should file a new NOI with us.

HJ: Motion to deny the request for Extension of OOC for 18 Jamie Way.

JZ: 2nd.

Unanimous. (6-0)

- ❖ **Guy Constantine – 401 Dunstable Road** – LC told the members that he has clearcut a significant portion of the Riverfront Area without authorization. LC has spoken to and sent a letter to the homeowner regarding this violation of his OOC for DEP#309-672. The homeowner has failed to respond.

HJ: Motion to issue an Enforcement Order for violation of OOC for DEP#309-672.

RS: 2nd.

Unanimous. (6-0)

- ❖ **Director's Determination for Joe Caggliano – 273 Middlesex Road:** Request to remove 5 trees from an area of his *Used Car Lot*. LC explained that 3 of the trees are dead saplings, the other two are large red maples, one is leaning over the lot and limbs are falling on the cars. LC doesn't see any good reason to cut the other maple.

HJ: Motion to approve the Director's Determination for Joe Caggliano – 273 Middlesex Road to remove 4 of the trees from the lot.

RS: 2nd.

Unanimous (5-0)

- ❖ **Director's Determination for James Wagner –127 Frost Road:** Request to extend his deck up to 50' from the wetland at its closest point. Disturbance to the buffer zone would consist of two hand dug sonar tube footings

BL: Motion to approve the Director's Determination for 127 Frost Road.

RS: 2nd.

Unanimous (6-0)

- ❖ LC asked for member guidance on whether to sign off on a building permit for 21 Bridget Avenue. There is an old wetland site on the plans that hasn't been wet for years. She read from a letter dated 1994 stating that it is no longer considered a wetland. They recommended she sign the permit.

- ❖ **LC** told the members of a complaint from Mr. Vieira on Alden Street regarding Mr. McCarthy putting cinder blocks under his dock. Vieira says that it is changing the flow and undermining his bank. The Commission requested LC require Mr. McCarthy to remove any obstructions, impeding the natural flow.
- ❖ Request for a two **Certificates of Compliance for 21 Jamie Way**. They would be “Partial Certificates of Compliance” as the OOCs were for multiple lots. LC told the members that 21 Jamie

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Way has no ongoing issues.

RS: Motion to issue Partial CCs for 21 Jamie Way for #309-350 and #309-408.

JZ: 2nd

Unanimous (6-0)

JZ: Motion to accept the minutes of the meeting of April 26, 2005.

HJ: 2nd.

5 Yeas. 1 Abstained (BL had not been present at that meeting.)

LG: Motion to adjourn.

HJ: 2nd.

Unanimous (6-0)

Meeting adjourned at 9:16 P.M.

Minutes taken and respectfully submitted by Gloria Clancy, Clerk